

Remarks

Claims 1-20 are pending in the application. Claims 1, 2, 5-9, 16, 19 and 20 were rejected, claims 3, 4, 17 and 18 were objected to, and claims 10-15 were allowed. By this Amendment, claims 1, 3, 5, 6, 8, 16 and 20 have been amended and claim 17 has been cancelled. Reconsideration of the claims is respectfully requested. No new matter has been added.

Objection to the Claims

Claims 1, 5, 6 and 8 were objected to by the Examiner for various informalities. Applicants have corrected the double recitation of "an engine speed" in claim 1 and have amended claims 5, 6 and 8 as recommended by the Examiner. Thus, Applicants believe these objections have been cured.

Objection to Specification

The Examiner objected to the specification for various informalities. Applicants have amended the specification to correct the reference number for the EGR cooler. Therefore, Applicants believe this objection has been cured.

The Examiner also requested that the Applicants to amend page 6, lines 1-13 and page 7, line 15 "for consistency of the whole specification" (see Office Action, pages 2-3). More specifically, the Examiner invited Applicants replace "pressure sensor 52" with "intake manifold pressure sensor 52", replace "temperature sensor 56" with "air temperature sensor 56", replace "humidity sensor 58" with "air humidity sensor 58", and replace "mass flow sensor 60" with "EGR mass flow sensor 60". However, the new terms "intake manifold pressure sensor 52", "air temperature sensor 56", "air humidity sensor 58", and "EGR mass flow sensor 60" are not found anywhere in the specification. Thus, renaming these sensors as the Examiner has proposed will introduce inconsistency to the specification. Therefore, Applicants respectfully decline the Examiner's invitation and request that this objection be withdrawn.

Rejection Under 35 U.S.C. §112

Claims 5 and 6 were rejected under 35 U.S.C. § 112, second paragraph as being indefinite. Applicants have amended these claims to replace “located near” with “disposed proximate”. Thus, the rejection of these claims is believed to be overcome.

Rejection Under 35 U.S.C. § 102

Claims 1-2, 6-7 and 16 were rejected under § 102(e) as being anticipated by Publication Number 2003/0192516 A1 issued to Brunemann et al. (hereinafter “Brunemann ‘516”). Applicants have amended claim 1 to more distinctly claim the present invention. More specifically, Applicants have amended claim 1 to incorporate some of the limitations of claim 3, which was objected to as being dependent on a rejected base claim. Amended claim 1 states that the exhaust gas recirculation valve is closed “if the threshold value is exceeded for a set period of time.” Brunemann ‘516 does not recite closing an exhaust gas recirculation valve if a threshold value is exceeded for a set period of time. Instead, Brunemann ‘516 simply states that “the EGR valve 36 [is closed] under certain circumstances” (see Paragraph [0102]). As a result, Applicants believe this rejection has been overcome. Since claims 2, 6 and 7 depend on claim 1, Applicants believe these claims are allowable for the same reasons.

Claim 16 has been amended to include the limitations of dependent claim 17. In the Office Action, the Examiner stated that claim 17 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Consequently, Applicants believe this rejection has been overcome.

Rejection Under 35 U.S.C. § 103

Claim 5 was rejected under § 103(a) as being unpatentable over Brunemann ‘516 in view of U.S. Patent No. 5,442,918 issued to Baeuerle et al. (hereinafter “Baeuerle ‘918”). Claim 5 depends on amended claim 1, which is believed to be in condition for allowance as discussed above. As a result, Applicants believe this rejection is now moot.

Claims 19 and 20 were rejected under § 103(a) as being unpatentable over Brunemann '516 in view of U.S. Patent No. 6,575,148 issued to Bhargava et al. (hereinafter "Bhargava '148"). Claims 19 and 20 depend on amended claim 16, which is believed to be in condition for allowance as discussed above. As a result, Applicants believe this rejection is now moot.

Conclusion

Applicants have made a genuine effort to respond to the Examiner's objections and rejections in advancing the prosecution of this case. Applicants believe all formal and substantive requirements for patentability have been met and that this case is in condition for allowance, which is respectfully requested.

Respectfully submitted,

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